

ORDINANCE NO. 686

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES FOR THE CITY OF RIVERVIEW BY AMENDING CHAPTER 14, "BUSINESSES", BY ADDING ARTICLE XIII., "MEDICAL MARIJUANA", TO REGULATE THE LOCATION AND OPERATION OF MEDICAL MARIJUANA PRIMARY CAREGIVERS IN THE CITY.

THE CITY OF RIVERVIEW ORDAINS:

**ARTICLE I: AMENDMENT:** That Article XIII., "Medical Marijuana" is added under Chapter 14 "Businesses", to hereafter read as follows:

Chapter 14 "Businesses"  
Article XIII. "Medical Marijuana"

**Section 14-650. –Definitions.**

The following words shall have the meanings ascribed to them except where the context clearly indicates a different meaning:

*City* means the City of Riverview.

*Caregiver facility* means a facility where a "primary caregiver" who is legally registered by the Michigan Department of Community Health may lawfully assist up to five qualifying patients" who are also legally registered by the department with the acquisition of medical marijuana in accordance with the Michigan Medical Marihuana Act of 2008.

*Marijuana* means that term as defined in section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106.

*Medical use* means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered "qualifying patients" debilitating medical condition.

*Primary caregiver* means a person who is licensed to supply "medical marijuana" for up to five "qualifying patients," and who is registered with the state department of community health for such purpose.

*Qualifying patient* means a person who has obtained a valid registration card from the Michigan Department of Community Health allowing them to possess and purchase medical marijuana.

**Sec. 14-651. - Purpose and intent.**

A registered primary caregiver, acting in compliance with the General Rules of the Michigan Department of Community Health, the Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26423(d) and the requirements of this Chapter, shall be allowed to obtain a business license from the City Clerk. Nothing in this Article, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with that Act and the General Rules. Also, since Federal law is not affected by that Act or the General Rules, nothing in this Article, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under Federal law. The Michigan Medical Marihuana Act does not protect users, caregivers or the owners of properties on which the medical use of marihuana is occurring from Federal prosecution, or from having their property seized by Federal authorities under the Federal Controlled Substances Act.

Nevertheless, it is determined necessary for the health, safety and welfare of the city to adopt this article regulating the location and operation of medical marijuana "primary caregivers" due to the following factors:

- (1) Outside the purview of the Michigan Medical Marijuana Act the possession and use of marijuana (a schedule I drug) in the State of Michigan remains a misdemeanor offense. Possession with intent to deliver, delivery or manufacture of marijuana, remain felonies.
- (2) Marijuana is classified federally as a "Schedule I Drug" under the Controlled Substances Act and is illegal to possess, manufacture, distribute or dispense. Schedule I drugs, which include heroin and LSD, have a high potential for abuse and serve no legitimate medical purpose in the United States.
- (3) In May, 2001, the United States Supreme Court issued its decision in *United States v. Oakland Buyers' Cooperative and Jeffery Jones* holding that distribution of medical marijuana is illegal under the Federal Controlled Substances Act, 21 U.S.C. Section 841 ("CSA"), and there is no medical necessity defense allowed under federal law.
- (4) The location of and easy access to "medical marijuana caregivers" in close proximity to homes, apartments, schools, churches, licensed day care centers and public parks give an impression of legitimacy to such uses and have adverse effects upon children, established family relations, property values and public safety.
- (5) The Michigan Medical Marihuana Act states that registered "primary caregivers" may receive compensation for assisting "qualified patients" in the medical use of marijuana, making them a likely commercial activity.

#### **Sec. 14-652. - Locations.**

- (a) A Primary Caregiver may grow and dispense medical marijuana in a residential district for one patient and the Primary Caregiver only, subject to the following conditions:

- (1) The Primary Caregiver must live in and be the permanent resident of the dwelling;
  - (2) The activity is solely confined within the dwelling with no outdoor storage of anything associated with medical marijuana;
  - (3) No marijuana is sold or offered for sale on the premises, except as is produced on the premises by the resident caregiver for one patient only;
  - (4) No internal or external alterations or construction features or equipment, not customarily found in residential areas, are permitted;
  - (5) Space for the activity shall not occupy more than 400 square feet of the dwelling;
  - (6) No sign advertising the activity shall be displayed;
  - (7) The activity shall not generate noise or odors offensive to the neighborhood;
  - (8) The activity shall not interfere with the permitted uses in the neighborhood or make the premises unsuitable for residential use;
  - (9) The activity will not cause a reduction in property values in the area;
  - (10) The dwelling of a registered primary caregiver must be located outside of a one-thousand (1,000)-foot radius from any school, including child care or day care facility, to insure community compliance with Federal "Drug-Free School Zone" requirements;
  - (11) The dwelling shall not be within 500 feet of the property line of any church, house of worship or other religious facility or institution;
  - (12) The dwelling shall not be within 500 feet of any public park, publically owned building or recreational area commonly used by children; and
  - (13) The dwelling shall not be within 500 feet of another "caregiver".
- (b) A Primary Caregiver growing and dispensing marijuana to more than one patient shall be located in a building within the M-2 General Industrial zoning district, but shall not be located:
- (1) Within 1,500 feet of any residential zoning district or existing residential dwelling or use.

- (2) Within a one-thousand (1,000) foot radius from any school, including child care or day care facility, to insure community compliance with Federal "Drug-Free School Zone" requirements.
- (3) Within 500 feet of the property line of any church, house of worship or other religious facility or institution.
- (4) Within 500 feet of any public park, publically owned building or recreational area commonly used by minor children.
- (5) Within 500 feet of another "caregiver".

**Sec. 14-653. - Requirements.**

Regardless of location, a Primary Caregiver is permitted to administer care in the manner provided in section 102, but is subject to the following additional requirements:

- (1) The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act of 2008 (MCL 333.26421) and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.
- (2) A primary caregiver must possess a valid registration card issued by the Michigan Department of Community Health and shall at all times comply with each and every provision of the Michigan Medical Marihuana Act
- (3) A primary caregiver shall obtain, and at all times maintain, a City of Riverview business license before providing care.
- (4) The hours of operation shall be restricted to between 8:00 a.m. and 8:00 p.m., Monday thru Saturday.
- (5) The facility in which care is administered shall be subject to inspection by law enforcement, city building officials and members of the Michigan Department of Community Health during the hours of operation.
- (6) That portion of the residential structure where energy usage and heat exceeds typical residential use, such as a grow room, and the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the Fire Department to insure compliance with the applicable Michigan Fire Protection Code.
- (7) Not more than one (1) primary caregiver shall be permitted to service qualifying patients on a parcel.

- (8) For a Primary Caregiver growing and dispensing marijuana to more than one patient, not more than five (5) qualifying patients shall be assisted with the medical use of marijuana within any given calendar week.
- (9) All medical marijuana shall be contained within the main building in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver, as reviewed and approved by the Building Official and the Police Department. A caregiver must segregate and independently secure each patient's medical marijuana in a locked container accessible only to that patient, and may not jointly, cultivate, store, share or co-mingle one patient's medical marijuana with that of another.
- (10) A caregiver may not cultivate, store or provide medical marijuana to patients who are cultivating their own supply, or are receiving care from another caregiver.
- (11) All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring, lighting and/or watering devices that support the cultivation, growing or harvesting of marijuana are located.
- (12) If a room with windows is utilized as a growing location, any lighting methods that exceed usual residential periods between the hours of 10:00 pm to 7:00 am shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that may create a distraction for adjacent residential properties.
- (13) An individual caregiver may assist no more than five patients and may cultivate not more than 12 plants per patient.
- (14) A caregiver shall obtain and display for inspection a valid sales tax license issued by the State of Michigan.
- (15) Use or consumption in any manner of marijuana or any illegal controlled substance is not permitted by a non-resident qualified patient on the premises of any caregiver.
- (16) No alcoholic beverage shall be sold, conveyed or consumed on the premises of any caregiver. Nor shall any person be present on the premises of a caregiver while intoxicated and/or under the influence of alcohol or any controlled substance.
- (17) Persons under the age of 18 years of age are not permitted to be on the premises of any caregiver unless they possess a valid medical marijuana registry card issued by the State of Michigan or another state.
- (18) A caregiver must maintain a list of its "qualifying patients by registration number." This list is subject to inspection during business hours by members of law enforcement and by members of the Michigan Department of Community Health.

- (19) All litter must be removed from the premises, including the parking lot, sidewalk and all areas visible to the public at least twice daily.
- (20) It shall be in violation of this ordinance for any caregiver to employ any person who is not at least 18 years of age in caregiving. No employee can have been convicted of a drug related felony. A caregiver is required to provide the local law enforcement agency within whose boundaries it is located, with a list of all its employees, including full name and date of birth, by January 15<sup>th</sup> of each year, or any time a new employee is hired.
- (21) It is the sole responsibility of each caregiver to dispense a safe product and to test their products and list the name, quantity and percentage of the main active ingredient (Delta 9 Tetrahydrocannabinol commonly, known as THC) on the labels of its products. Copies of laboratory testing results showing the percentage level of THC must be available on site for inspection by employees of the department of community health or law enforcement. When the product is dispensed it shall be packaged in child proof tamper resistant packaging that is sealed, and the contents will be clearly marked with its percentage of THC and weight.
- (22) A ledger must be maintained of all transactions. This ledger shall contain the following information: type and source of medical marijuana dispensed; the "qualifying patients" marijuana registry ID number; and the date and time dispensed.
- (23) Every caregiver must comply with all local, county and state laws. No Marijuana shall be grown or dispensed in any location within the City of Riverview except in strict compliance with the terms and conditions of this Ordinance.
- (24) Each caregiver shall be liable for all costs associated with the investigation, prosecution, incarceration, booking, medical treatment, storage and destruction of evidence, and any other unspecified costs for the failure to comply with the provisions of this article resulting in the arrest and prosecution of any employees, owners or patrons.

**Sec. 14-654. - Criminal penalty.**

Any person violating any of the provisions of this article and any of the articles stated within, shall upon conviction, be guilty of a misdemeanor, and shall be punished by a fine of not more than \$500.00 and up to 93 days in jail, plus the revocation of the business license issued by the City.

ARTICLE II. Penalty: A person violating this ordinance shall be punished in accordance with Section 1-8 of the Code of Ordinances of the City of Riverview, unless a different penalty is expressly provided in this ordinance.

ARTICLE III. Severability: Should any word, sentence, phrase or any portion of this Ordinance be held in a manner invalid by any Court of competent jurisdiction or by any agency having authority to do so for any reason whatsoever, such holding shall be construed and limited to such

word, sentence, phrase or any portion of the Ordinance held to be invalid and shall not be construed as affecting the validity of any remaining words, sentence, phrases or portions of the Ordinance.

ARTICLE IV. Conflicting Ordinances: All prior existing ordinances adopted by the City of Riverview inconsistent or in conflict with the provisions of this Ordinance are, to the extent of such conflict or inconsistency, hereby expressly repealed.

ARTICLE V. Reading and Publication: This Ordinance shall be given a first reading on July 18, 2016 shall be given a second reading on September 19, 2016, shall be adopted on September 19, 2016 and shall be published and become effective upon publication. The Clerk shall publish a summary of this ordinance and include in the publication notice that a true copy of the Ordinance can be inspected or obtained at the Clerk's office.

ADOPTED, APPROVED AND PASSED by the City Council of the City of Riverview this 19<sup>th</sup> day of September, 2016.

The undersigned hereby certifies that the foregoing is a true and accurate copy of the ordinance adopted by the City Council of the City of Riverview at a regular meeting held on September 19, 2016.

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Cynthia M. Hutchison, City Clerk